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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JUDITH KILLIAN, on behalf of herself) Case No.
and all others similarly situated,)
) **CLASS ACTION**
Plaintiff,)
) **COMPLAINT FOR VIOLATIONS**
vs.) **OF:**
)
FRONTIER COMMUNICATIONS) 1. VIOLATIONS OF
CORPORATION, ALTURA CREDIT) ELECTRONIC FUNDS
UNION, VERIZON WIRELESS) TRANSFER ACT [15 U.S.C.
(VAW), LLC, and DOES 1-10,) §1693 ET SEQ.]
inclusive,) 2. VIOLATIONS OF
) ELECTRONIC FUNDS
) TRANSFER ACT [15 U.S.C.
) §1693 ET SEQ.]
Defendants.)
)
) **DEMAND FOR JURY TRIAL**

Plaintiff JUDITH KILLIAN (“Plaintiff”), on behalf of herself and all
others similarly situated, alleges the following against Defendants FRONTIER
COMMUNICATIONS CORPORATION, ALTURA CREDIT UNION, and
VERIZON WIRELESS (VAW), LLC (collectively “Defendants”) upon
information and belief based upon personal knowledge:

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1 in Riverside County in the state of California, and is a “consumer” as defined by
2 the EFTA, 15 U.S.C. §16923(a).

3 7. At all relevant times herein, DEFENDANT, FRONTIER
4 COMMUNICATIONS CORPORATION (“DEFENDANT Frontier”), was a
5 company engaged in the business of providing telecommunications and related
6 services.

7 8. At all relevant times herein, DEFENDANT, ALTURA CREDIT
8 UNION (“DEFENDANT Altura”), was a company engaged in the business of
9 providing credit to consumers and related services.

10 9. At all relevant times herein, DEFENDANT, VERIZON WIRELESS
11 (VAW), LLC (“DEFENDANT Verizon”), was a company engaged in the
12 business of providing telecommunications and related services.

13 10. The above named Defendants, and their subsidiaries and agents, are
14 collectively referred to as “Defendants.” The true names and capacities of the
15 Defendants sued herein as DOE DEFENDANT 1 through 10, inclusive, are
16 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
17 names. Each of the Defendants designated herein as a DOE is legally responsible
18 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
19 the Complaint to reflect the true names and capacities of the DOE Defendants
20 when such identities become known.

21 11. Plaintiff is informed and believes that at all relevant times, each and
22 every Defendant was acting as an agent and/or employee of each of the other
23 Defendant and was acting within the course and scope of said agency and/or
24 employment with the full knowledge and consent of each of the other Defendant.
25 Plaintiff is informed and believes that each of the acts and/or omissions
26 complained of herein was made known to, and ratified by, each of the other
27 Defendant.
28

FACTUAL ALLEGATIONS - EFTA

12. In or around September of 2015, Plaintiff entered into a written agreement with Defendant Frontier whereby Defendant Frontier would deduct sums from Plaintiff's account on a reoccurring basis for Plaintiff's use of Defendant Frontier's services.

13. After Plaintiff's agreement with Defendant Frontier, Plaintiff had funds deposited into a separate account managed by Defendant Altura. Plaintiff had never entered into an agreement or authorized Defendant Frontier, Defendant Verizon or Defendant Altura to have Defendant Frontier or Defendant Verizon to deduct sums from this account on a reoccurring basis.

14. Beginning in or around March of 2016 through December of 2017, Defendant Frontier and Defendant Verizon began deducting sums from Plaintiff's account with Defendant Altura on a reoccurring basis.

15. Plaintiff informed Defendants that Defendant Frontier and Defendant Verizon had no authorization to deduct these sums from Plaintiff's account with Defendant Altura. Despite Plaintiff's request not to deduct sums from her account with Altura, Defendant Frontier and Defendant Verizon continued to do so, allowed and facilitated by Defendant Altura.

16. Plaintiff never provided Defendants with any authorization to deduct any of these sums of money on a regular recurring basis from Plaintiff's banking account. Defendants continued to deduct sums for several months without Plaintiff's authorization.

17. Defendants did not provide to Plaintiff, nor did Plaintiff execute, any written or electronic writing memorializing or authorizing the recurring or automatic payments for these sums.

18. Plaintiff did not provide Defendants either with a written or an electronic signature authorizing the recurring or automatic payments.

1 19. In addition, Defendants continued to deduct sums on a reoccurring
2 basis after Plaintiff informed Defendants that they did not have authorization to
3 do so.

4 20. Plaintiff alleges such activity to be in violation of the Electronic
5 Funds Transfer Act, 15 U.S.C. 1693 et seq. (“EFTA”), and its surrounding
6 regulations, including, but not limited to, 12 C.F.R. §§1005.7, 1005.8, 1005.9,
7 and 12 C.F.R. §1005.10(c).

8 **CLASS ACTION ALLEGATIONS**

9 21. Plaintiff brings this action on behalf of herself and all others
10 similarly situated, as a member of the proposed class (hereafter “The Class”)
11 defined as follows:

12 All persons in the United States whose bank accounts
13 were debited on a reoccurring basis by Defendants
14 without Defendants obtaining a written authorization
15 signed or similarly authenticated for preauthorized
16 electronic fund transfers within the one year prior to the
filing of this Complaint.

17 22. Plaintiff also brings this action on behalf of herself and all others
18 similarly situated, as a member of the proposed class (hereafter “The Revocation
19 Class”) defined as follows:

20 All persons in the United States whose bank accounts
21 were debited on a reoccurring basis by Defendants after
22 the individuals having revoked consent to withdraw
such sums within the one year prior to the filing of this
23 Complaint.

24 23. The Class and the Revocation Class shall be collectively referred to
25 as “The Classes.”

26 24. Plaintiff represents, and is a member of, The Class, consisting of all
27 persons within the United States whose bank account was debited on a recurring
28 basis by Defendants without Defendants obtaining a written authorization signed

1 or similarly authenticated for preauthorized electronic fund transfers within the
2 one year prior to the filing of this Complaint.

3 25. Plaintiff represents, and is a member of, The Revocation Class,
4 consisting of all persons in the United States whose bank accounts were debited
5 on a reoccurring basis by Defendants after the individuals having revoked
6 consent to withdraw such sums within the one year prior to the filing of this
7 Complaint.

8 26. Defendants, their employees and agents are excluded from The
9 Classes. Plaintiffs do not know the number of members in The Classes, but
10 believe the Class members number in the thousands, if not more. Thus, this
11 matter should be certified as a Class Action to assist in the expeditious litigation
12 of the matter.

13 27. The Classes are so numerous that the individual joinder of all of its
14 members is impractical. While the exact number and identities of the members
15 The Classes are unknown to Plaintiff at this time and can only be ascertained
16 through appropriate discovery, Plaintiff is informed and believes and thereon
17 alleges that The Classes includes thousands of members. Plaintiff alleges that
18 The Classes members may be ascertained by the records maintained by
19 Defendants.

20 28. This suit is properly maintainable as a class action pursuant to Fed.
21 R. Civ. P. 23(a) because the Classes are so numerous that joinder of members of
22 the Classes is impractical and the disposition of their claims in the class action
23 will provide substantial benefits both to the parties and to the Court.

24 29. There are questions of law and fact common to the Class affecting
25 the parties to be represented. The questions of law and fact to the Class
26 predominate over questions which may affect individual Classes members and
27 include, but are not necessarily limited to, the following:
28

1 a. The members of the Class entered into agreements with Defendant
2 sto have automatic, or recurring, electronic payments drawn from their personal
3 accounts to be paid to Defendants towards settlement of the Class members'
4 alleges services received by Defendants.

5 b. The members of the Class were not provided with, nor did they
6 execute, written agreements memorializing the automatic or recurring electronic
7 payments.

8 c. Defendants did not request, nor did it provide, Class members with
9 written agreements memorializing the automatic or recurring electronic
10 payments.

11 d. The members of the Class did not provide either a written ("wet") or
12 otherwise electronic signature authorizing the automatic or recurring electronic
13 payments.

14 e. Despite not providing written or electronic authorization for
15 payments to be drawn from their accounts, Defendants took unauthorized
16 payments from Class members' accounts.

17
18 30. There are questions of law and fact common to the Revocation Class
19 affecting the parties to be represented. The questions of law and fact to the
20 Revocation Class predominate over questions which may affect individual
21 Classes members and include, but are not necessarily limited to, the following:

22 a. The members of the Class were not provided with, nor did they
23 execute, written agreements memorializing the automatic or recurring electronic
24 payments.

25 b. Defendants did not request, nor did it provide, Class members with
26 written agreements memorializing the automatic or recurring electronic
27 payments.

28 c. The members of the Class did not provide either a written ("wet") or

1 otherwise electronic signature authorizing the automatic or recurring electronic
2 payments.

3 d. Despite not providing written or electronic authorization for
4 payments to be drawn from their accounts, Defendants took unauthorized
5 payments from Class members' accounts.

6 e. Despite revoking consent and authorization for payments to be
7 drawn from their accounts, Defendants took unauthorized payments from Class
8 members' accounts.

9 31. As someone whose bank account was debited on a reoccurring basis
10 by Defendants without Defendants obtaining a written authorization signed or
11 similarly authenticated for these preauthorized electronic fund transfers and after
12 revoking consent to have these sums withdrawn from her account Plaintiff is
13 asserting claims that are typical of The Classes.
14

15 32. Plaintiff will fairly and adequately protect the interests of the
16 members of The Classes. Plaintiff has retained attorneys experienced in the
17 prosecution of class actions.

18 33. A class action is superior to other available methods of fair and
19 efficient adjudication of this controversy, since individual litigation of the claims
20 of all Class members is impracticable. Even if every Class member could afford
21 individual litigation, the court system could not. It would be unduly burdensome
22 to the courts in which individual litigation of numerous issues would proceed.
23 Individualized litigation would also present the potential for varying, inconsistent,
24 or contradictory judgments and would magnify the delay and expense to all
25 parties and to the court system resulting from multiple trials of the same complex
26 factual issues. By contrast, the conduct of this action as a class action presents
27 fewer management difficulties, conserves the resources of the parties and of the
28 court system, and protects the rights of each Class member.

1 34. The prosecution of separate actions by individual Class members
2 would create a risk of adjudications with respect to them that would, as a practical
3 matter, be dispositive of the interests of the other Class members not parties to
4 such adjudications or that would substantially impair or impede the ability of such
5 non-party Class members to protect their interests.

6 35. Defendants have acted or refused to act in respects generally
7 applicable to The Classes, thereby making appropriate final and injunctive relief
8 with regard to the members of the Classes as a whole.

9 36. Pursuant to Fed. R. Civ. P. 23, a class action is appropriate and
10 preferable because, on information and belief, the putative classes consist of
11 thousands, of individuals and is so numerous that joinder of all putative class
12 members, whether otherwise required or permitted, is impracticable. The actual
13 number of putative class members is in the exclusive control of Defendant.

14 37. Pursuant to Fed. R. Civ. P. 23, a class action is appropriate and
15 preferable, because Plaintiff will fairly and adequately protect the interests of the
16 Classes and Plaintiff has hired counsel able and experienced in class action
17 litigation.

18 38. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
19 because this Court and the parties would enjoy economies in litigating common
20 issues on a class-wide basis instead of a repetitive individual basis.

21 39. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
22 because the size of each putative class member's actual damages is too small to
23 make individual litigation an economically viable option.

24 40. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
25 because no unusual difficulties will likely occur in the management of the Class
26 as all questions of law or fact to be litigated at the liability stage are common to
27 the putative class and all compensatory relief is concomitant with a liability
28

1 finding and can be calculated by automated and objective means.

2 41. The size and definition of the Classes can be identified through
3 Defendants' records and/or Defendants' agents' records.

4 42. In fact, EFTA specifically contemplates EFTA as suitable for class
5 wide adjudication. *See* 15 U.S.C. §1693m(a)(2)(B).

6 **COUNT I:**
7 **DEFENDANTS VIOLATED THE ELECTRONIC FUNDS TRANSFER**
8 **ACT**
9 **(On Behalf of Plaintiff and the Class)**

10 43. Section 907(a) of the EFTA, 15 U.S.C. §1693e(a), provides that a
11 "preauthorized electronic fund transfer from a consumer's account may be
12 authorized by the consumer only in writing, and a copy of such authorization
13 shall be provided to the consumer when made."

14 44. Section 903(9) of the EFTA, 15 U.S.C. § 1693a(9), provides that the
15 term "preauthorized electronic fund transfer" means "an electronic fund transfer
16 authorized in advance to recur at substantially regular intervals."

17 45. Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), provides
18 that "[p]reauthorized electronic fund transfers from a consumer's account may be
19 authorized only by a writing signed or similarly authenticated by the consumer.
20 The person that obtains the authorization shall provide a copy to the consumer."

21 46. Section 205.10(b) of the Federal Reserve Board's Official Staff
22 Commentary to Regulation E, 12 C.F.R. § 205.10(b), Supp. I, provides that "[t]he
23 authorization process should evidence the consumer's identity and assent to the
24 authorization." *Id.* at ¶10(b), comment 5. The Official Staff Commentary further
25 provides that "[a]n authorization is valid if it is readily identifiable as such and
26 the terms of the preauthorized transfer are clear and readily understandable." *Id.*
27 at ¶10(b), comment 6.

28 47. In multiple instances, Defendants have debited Plaintiff's and also

1 the putative Class members' bank accounts on a recurring basis without obtaining
 2 a written authorization signed or similarly authenticated for preauthorized
 3 electronic fund transfers from Plaintiff's and also the putative Class members'
 4 accounts, thereby violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a),
 5 and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

6 48. In multiple instances, Defendants have debited Plaintiff's and also
 7 the putative Class members' bank accounts on a recurring basis without providing
 8 a copy of a written authorization signed or similarly authenticated by Plaintiff or
 9 the putative Class members for preauthorized electronic fund transfers, thereby
 10 violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), and Section
 11 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, JUDITH KILLIAN, individually, and on behalf
 14 of the members of the Class, respectfully requests judgment be entered against
 15 Defendants, for the following:
 16

17 49. That this action be certified as a class action on behalf of The Class
 18 and Plaintiff be appointed as the representative of The Class;

19 50. Statutory damages of \$1,000.00, per Class Member, pursuant to the
 20 Electronic Fund Transfer Act, §916(a)(2)(A);

21 51. Actual damages;

22 52. Costs and reasonable attorneys' fees pursuant to the Electronic Fund
 23 Transfer Act, §916(a)(3);

24 53. For prejudgment interest at the legal rate; and

25 54. Any other relief this Honorable Court deems appropriate.

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COUNT II:
DEFENDANTS VIOLATED THE ELECTRONIC FUNDS TRANSFER
ACT

(On Behalf of Plaintiff and the Revocation Class)

55. In multiple instances, Defendants have debited Plaintiff's and also the putative Class members' bank accounts on a recurring basis without obtaining a written authorization signed or similarly authenticated for preauthorized electronic fund transfers from Plaintiff's and also the putative Class members' accounts by deducting funds from their account after any authorization that Defendants had was withdrawn.

56. In addition, Regulation E at 12 C.F.R. §1005.10(c) states in relevant part, "A consumer may stop payment of a preauthorized electronic fund transfer from the consumer's account by notifying the financial institution orally or in writing at least three business days before the scheduled date of the transfer." 12 C.F.R. § 1005.10.

57. By deducting sums from Plaintiff's and Class Members accounts after they have revoked consent to have these sums withdraw, Defendants violated Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), and Regulation E at 12 C.F.R. §1005.10(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, JUDITH KILLIAN, individually, and on behalf of members of the revocation Class, respectfully requests judgment be entered against Defendants, for the following:

58. That this action be certified as a class action on behalf of The Revocation Class and Plaintiff be appointed as the representative of The Revocation Class;

59. Statutory damages of \$1,000.00, per Revocation Class Member, pursuant to the Electronic Fund Transfer Act, §916(a)(2)(A);

1 60.Actual damages;

2 61.Costs and reasonable attorneys' fees pursuant to the Electronic Fund
3 Transfer Act, §916(a)(3);

4 62.For prejudgment interest at the legal rate; and

5 63.Any other relief this Honorable Court deems appropriate.

6 **TRIAL BY JURY**

7 64.Pursuant to the seventh amendment to the Constitution of the United
8 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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10 Respectfully submitted this 12th day of June, 2018.

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12 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

13
14 By: /s/ Todd M. Friedman
15 Todd M. Friedman
16 Law Offices of Todd M. Friedman
17 Attorney for Plaintiff
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